

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1681.01
COMPLAINT INVESTIGATOR:	Steve Starbuck
DATE OF COMPLAINT:	February 5, 2001
DATE OF REPORT:	February 25, 2001
REQUEST FOR RECONSIDERATION:	yes (revisions to original report are underscored)
DATE OF CLOSURE:	May 4, 2001

COMPLAINT ISSUES:

Whether the South Ripley Community School Corporation and the Ripley-Ohio-Dearborn Special Education Cooperative violated:

511 IAC 7-27-2 with regard to the school's alleged failure to provide the parents with adequate notice of the case conference committee (CCC) meeting, including the requirements of 511 IAC 7-27-2(d).

511 IAC 7-23-1(f) with regard to the school's alleged failure to provide the parents with access to the student's educational record upon the parents' request.

511 IAC 7-27-5(d) and (f) with regard to the school's alleged failure to obtain parental consent prior to changing the student's placement.

511 IAC 7-27-4(a)(3) with regard to the school's alleged failure to convene a CCC meeting upon the parents' request.

511 IAC 7-27-3 with regard to the school's alleged failure to include all required participants in the CCC meeting.

511 IAC 7-27-9(a)(2) and 511 IAC 7-27-6(a)(10) with regard to the school's alleged failure to ensure the CCC considered a continuum of placement options, including instruction in general education classes with supplementary aids and services, when determining the student's placement in the least restrictive environment.

511 IAC 7-27-6(a)(6) with regard to the school's alleged failure to include in the student's IEP an explanation of the extent to which the student will not participate with nondisabled students in general education classes or settings.

511 IAC 7-27-5 with regard to the school's alleged failure to include in the CCC report a statement of the student's eligibility for special education and related services.

FINDINGS OF FACT:

1. The student (Student) is seven years old, attends the second grade, and has been determined eligible for special education under the category of other health impairment. The parents dispute the Student's continued eligibility for special education and related services.

2. The student's parents allege they were not notified in writing of a case conference committee (CCC) meeting that was convened on August 16, 2000. The director provided a Record of Attempts to Schedule Meetings log dated August 11, 2000, which indicates the student's father agreed over the telephone to attend the August 16<sup>th</sup> meeting. The Notice of Case Conference (Notice) form reflects the form was mailed to the student's parents on August 11, 2000, and includes all requirements specified in 511 IAC 7-27-2(d). There is no documentation to establish when the Notice was received by the parents, and the parents assert the notice did not arrive until after the CCC meeting had been held. The Notice states the purpose of the CCC meeting is to discuss "Move in." The Notice does not provide any explanation of what it means to discuss "move in." Although there is a place to indicate that a review or revision of the IEP will be discussed, this item is not checked. The information to be discussed is identified as "Teacher/Pathologist comments and/or evaluation results." However, the Student had never attended this school, and no evaluation had been conducted. The student's mother attended the August 16<sup>th</sup> CCC meeting and signed the IEP indicating approval with the recommendations made by the CCC and giving consent for the IEP to be implemented.
3. In a letter received by school personnel on January 26, 2001, the parents requested a copy of the student's educational record. The school principal states with the approval of the parents a copy of the student's entire educational record was sent home with the student on January 30, 2001. The director submitted a copy of a letter dated January 30, 2001, written to the student's parents from the principal indicating the documents the parents had requested were being provided. The principal states that staff recently located two documents pertaining to the student's enrollment at another school. On February 14, 2001, copies of these two documents were sent home with the student. The director provided a letter dated February 14, 2001, to the student's parents from the principal indicating the school was providing the parents with copies of these two documents as they had recently been located and placed in the student's permanent record.
4. The parents assert that the Student's IEP was changed without their consent when the Student enrolled in the receiving school corporation. An IEP was developed on April 19, 2000, at the school previously attended by the Student. The parents attended the April 19, 2000, CCC meeting. The duration of the IEP was from April 19, 2000 to April 19, 2001. Subsequent to the development of the April 2000 IEP, the Student's residence changed as did the school corporation of legal settlement. Prior to the beginning of the 2000-2001 school year, the receiving school corporation convened a CCC. The parent attended the CCC, and the Student's IEP was revised. The duration of the revised IEP was from August 17, 2000, to May 22, 2001. The parent signed her agreement to the revised IEP on August 16, 2000.
5. In a letter to school personnel dated November 9, 2000, the parent requested to speak with the student's principal, special education teacher, guidance counselor, and general education teacher. Although the letter does not specifically request a CCC, the individuals identified by the parent are those who participated in the August 16, 2000, CCC meeting. The school sent the parent a Notice of Case Conference on November 10, 2000, scheduling a CCC meeting on November 15, 2000. The expected participants identified in the Notice include the principal, special education teacher, guidance counselor, and general education teacher. On November 15, 2000, a meeting was conducted and attended by the parent, the principal, the special education teacher, the general education teacher, and the guidance counselor. However, the school documented this meeting on a Parent-Teacher Conference Form rather than a CCC Report. The group's discussion centered on the Student's continued eligibility for special education. The school provided the parents with a copy of the Notice of Parent Rights at the time of this meeting.
6. CCC meetings were convened on August 16, and November 28, 2000. Both IEPs developed on these dates indicate that a representative of the public agency, the student's teacher of record, a general education teacher, and the parents attended the two meetings.

7. Pages 10 and 11 of the IEPs dated August 16, and November 28, 2000, document that the CCC members considered the full continuum of placement options, including instruction in general education classes with supplementary aids and services, when determining the student's placement in the least restrictive environment. At the August 16<sup>th</sup> meeting, the CCC determined the student should receive special education instruction for most of the instructional day, with instruction in the general education classroom for part of the day. Page 10, item E lists the accommodations the CCC determined necessary for the student to succeed in the general education environment. At the November 28<sup>th</sup> meeting, the CCC determined the student should receive instruction in a resource room with special education and related services provided outside the general education classroom during the instructional day. Page 10, item E lists the accommodations the CCC determined necessary for the student to succeed in the general education environment.
8. Page 10, item F of the IEPs dated August 16, and November 28, 2000, document the extent that the student will participate with nondisabled students in general education classes. Both pages list what general education classes the student will attend. In addition, the pages reflect that the student will participate in meals, recess, transportation, convocations, field trips, and clubs-special interest groups with nondisabled students.
9. Page five, section VII of the IEP forms utilized by the school addresses the issue of a student's eligibility for special education. Page five, section VII of the Student's IEP dated August 16, 2000, states the Student is eligible for special education and related services as a Student with an other health impairment. Page five, section VII of the student's IEP dated November 28, 2000, has been left blank. This section of the student's IEP does not indicate whether the student is eligible for special education, and does not list a primary or secondary disability for the student. Page 12, section XI of the November 28, 2000, IEP contains a section for the parent to agree that the student is not eligible for special education services. This item is not checked; the parent has checked the item indicating agreement with the program recommended for the student. The student's continued eligibility for special education is currently the subject of a mediation scheduled for March 8, 2001.

#### CONCLUSIONS:

1. 511 IAC 7-17-3 defines adequate notice as written notice, provided early enough to allow a change in time or location, that includes the required components including the purpose of the meeting. Finding of Fact #2 reflects the school and the parent agreed to meet on August 16, 2000, but the school failed to ensure that the written notification was provided to the parent prior to the time the CCC was actually convened. Further, the Notice states the purpose of the meeting is to discuss "move-in," there is no explanation of what a "move-in" CCC is. Therefore, a violation of 511 IAC 7-27-2 is found.
2. Finding of Fact #3 indicates the school provided the parents with copies of the student's educational record upon the parents' request. Therefore, no violation of 511 IAC 7-23-1(f) is found.
3. Finding of Fact #4 reflects the school obtained parental consent prior to changing the student's placement. Therefore, no violations of 511 IAC 7-27-5(d) and (f) are found.
4. Finding of Fact #5 indicates that, on November 9, 2000, the parents requested a meeting with CCC participants. The School sent written notification to the parents the next day that a CCC would occur on November 15, 2000. On the date of the meeting, the school provided the parent with the requisite notice of parent rights, but failed to document the meeting as a CCC meeting. The group

discussed the Student's continued eligibility for special education, which is one of the functions of a CCC. The School and the parent expected a CCC to be conducted on November 15, 2000. Although a meeting was conducted, the School failed to document the meeting as a CCC meeting, including the CCC Report requirements of 511 IAC 7-27-5. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.

5. Finding of Fact #6 reflects the school included all required participants in the CCC meetings convened on August 16, and November 28, 2000. Therefore, no violation of 511 IAC 7-27-3 is found.
6. Finding of Fact #7 indicates the school ensured that the CCC considered the full continuum of placement options, including instruction in general education classes with supplementary aids and services, when determining the student's placement in the least restrictive environment. Therefore, no violations of 511 IAC 7-27-9(a)(2) and 511 IAC 7-27-6(a)(10) are found.
7. Finding of Fact #8 reflects the school included in the student's IEPs an explanation of the extent to which the student will not participate with nondisabled students in general education classes or settings. Therefore, no violation of 511 IAC 7-27-6(a)(6) is found.
8. Finding of Fact #9 indicates the school failed to include in the IEP/CCC Report a statement of the student's eligibility for special education and related services. However, the CCC was unable to reach agreement on the student's continued eligibility, and the parents and the school are currently engaged in mediation in an effort to resolve the issue. Although a technical violation of 511 IAC 7-27-5 occurred, no further corrective action will be required in light of the pending mediation.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings and Conclusions listed above:**

#### **CORRECTIVE ACTION**

The South Ripley Community School Corporation and the Ripley-Ohio-Dearborn Special Education Cooperative shall:

1. Review and, if necessary, revise current procedures to ensure that written notification of a CCC is received by a parent prior to the date of the scheduled meeting. A copy of the school's procedures, ensuring parent's receipt prior to the meeting, along with an assurance statement that staff responsible for these notifications have been advised of any change in the procedures and the requirement that the parent receive the notification prior to the meeting date, shall be submitted to the Division no later than April 30, 2001.
2. Revise *Notice of Case Conference* to more clearly identify the purpose of the CCC when the CCC is being conducted for a student who has recently moved in to the school corporation. The revision may be as simple as changing "Move in" to "Special education and related services for a newly enrolled student" as the topic to be discussed. Submit a copy of the revised form no later than April 30, 2001.
3. In-service appropriate staff on the following:
  - a. a CCC must be convened upon the parent's request;
  - b. the CCC meeting must be appropriately documented; and
  - c. a CCC Report (as described in 511 IAC 7-27-5) must be prepared and provided to the parent.A copy of the in-service agenda, any handouts or materials distributed, and a list of attendees by name and title shall be submitted to the Division no later than April 30, 2001.

